

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1027

(Reference to Senate engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 28-5611, Arizona Revised Statutes, is amended to read:

28-5611. Refunds; motor vehicle fuel

A. Except as provided in subsection B of this section, on application to the director pursuant to this article and if section 28-5612 is complied with, a person who buys and uses motor vehicle fuel shall receive a refund in the amount of the tax if the person pays the tax on the fuel and either:

1. Uses the fuel other than in ~~any~~ EITHER of the following:

(a) A motor vehicle on a highway in this state.

(b) Watercraft on the waterways of this state.

~~(c) A motor vehicle operating on a transportation facility or toll road pursuant to chapter 22 of this title.~~

2. Buys aviation fuel for use in aircraft applying seeds, fertilizer or pesticides.

3. Loses the fuel by fire, theft or other accident.

B. If a claim for refund is based on the use of motor vehicle fuel in aircraft, five cents of the tax collected on each gallon of motor vehicle fuel claimed shall remain in the state aviation fund, and the department shall refund the remainder of the tax pursuant to section 28-5612.

Sec. 2. Repeal

Title 28, chapter 22, Arizona Revised Statutes, is repealed.

Sec. 3. Title 28, Arizona Revised Statutes, is amended by adding a new chapter 22, to read:

CHAPTER 22

PUBLIC HIGHWAY AUTHORITIES

ARTICLE 1. GENERAL PROVISIONS

28-7701. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "AUTHORITY" MEANS A BODY CORPORATE AND POLITICAL SUBDIVISION OF THIS STATE ESTABLISHED PURSUANT TO THIS CHAPTER.

2. "BOARD" MEANS THE BOARD OF DIRECTORS OF AN AUTHORITY.

1 3. "BOND" MEANS ANY BOND, NOTE, INTERIM CERTIFICATE, CONTRACT OR OTHER
2 EVIDENCE OF INDEBTEDNESS OF AN AUTHORITY AUTHORIZED BY THIS CHAPTER.

3 4. "COMBINATION":

4 (a) MEANS ANY TWO OR MORE MUNICIPALITIES, TWO OR MORE COUNTIES OR ONE
5 OR MORE MUNICIPALITIES AND ONE OR MORE COUNTIES.

6 (b) INCLUDES THIS STATE TO THE EXTENT AUTHORIZED BY SECTION 28-7702.

7 5. "CONSTRUCT" OR "CONSTRUCTION" MEANS THE PLANNING, DESIGNING,
8 ENGINEERING, ACQUISITION, INSTALLATION, CONSTRUCTION AND RECONSTRUCTION OF
9 PUBLIC HIGHWAYS.

10 6. "GOVERNMENTAL UNIT" MEANS THIS STATE OR ANY COUNTY OR MUNICIPALITY
11 OF THIS STATE THAT IS LOCATED IN A METROPOLITAN REGION.

12 7. "METROPOLITAN REGION" MEANS AN AREA THAT IS DESIGNATED A
13 METROPOLITAN STATISTICAL AREA BY THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET
14 AND THAT HAS A POPULATION OF MORE THAN ONE MILLION PERSONS.

15 8. "PUBLIC HIGHWAY" MEANS A BELTWAY OR OTHER TRANSPORTATION
16 IMPROVEMENT THAT IS LOCATED IN A METROPOLITAN REGION, THAT IS AN EXPRESSWAY
17 THAT GENERALLY CIRCUMSCRIBES A METROPOLITAN REGION AND THAT WILL BE PRIMARILY
18 USED FOR MAJOR TRAFFIC MOVEMENT AT HIGHER TRAFFIC SPEEDS. AS THE BOARD
19 DETERMINES, A PUBLIC HIGHWAY MAY CONSIST OF IMPROVEMENTS, INCLUDING PAVING,
20 GRADING, LANDSCAPING, CURBS, GUTTERS, CULVERTS, LIGHTING, BRIDGES,
21 OVERPASSES, UNDERPASSES, RAIL CROSSINGS, ACCESS ROADS, INTERCHANGES, DRAINAGE
22 FACILITIES, HIGH OCCUPANCY VEHICLE LANES, TOLL COLLECTION FACILITIES,
23 MAINTENANCE FACILITIES, GAS, ELECTRIC, WATER, SEWER AND OTHER UTILITIES
24 LOCATED OR TO BE LOCATED IN THE RIGHT-OF-WAY FOR A PUBLIC HIGHWAY AND OTHER
25 REAL OR PERSONAL PROPERTY, INCLUDING EASEMENTS, RIGHTS-OF-WAY AND OTHER
26 INTERESTS RELATING TO THE FINANCING, CONSTRUCTION, OPERATION OR MAINTENANCE
27 OF A PUBLIC HIGHWAY.

28 9. "REVENUES" MEANS ANY TOLLS, FEES, RATES, CHARGES, ASSESSMENTS,
29 GRANTS, CONTRIBUTIONS OR OTHER INCOME AND REVENUES RECEIVED BY THE AUTHORITY.

30 28-7702. Establishment of authorities

31 A. ANY COMBINATION MAY ESTABLISH BY CONTRACT AN AUTHORITY THAT IS
32 AUTHORIZED TO EXERCISE THE FUNCTIONS CONFERRED BY THIS CHAPTER ON THE
33 ISSUANCE BY THE DIRECTOR OF A CERTIFICATE STATING THAT THE AUTHORITY HAS BEEN
34 DULY ESTABLISHED ACCORDING TO THE LAWS OF THIS STATE. THE CERTIFICATE SHALL
35 BE ISSUED BY THE DIRECTOR WITHIN NINETY DAYS AFTER THE FILING OF A COPY OF
36 THE CONTRACT BY THE COMBINATION JOINING IN THE ESTABLISHMENT OF THE AUTHORITY
37 AND ON A DETERMINATION BY THE DIRECTOR THAT EACH MEMBER OF THE COMBINATION IS

1 LOCATED IN THE SAME METROPOLITAN REGION. THE DIRECTOR SHALL CAUSE THE
2 CERTIFICATE TO BE RECORDED IN THE REAL ESTATE RECORDS IN EACH COUNTY THAT HAS
3 TERRITORY INCLUDED IN THE BOUNDARIES OF THE AUTHORITY. ON ISSUANCE OF THE
4 CERTIFICATE BY THE DIRECTOR, THE AUTHORITY CONSTITUTES A SEPARATE POLITICAL
5 SUBDIVISION AND BODY CORPORATE OF THIS STATE AND HAS ALL OF THE DUTIES,
6 PRIVILEGES, IMMUNITIES, RIGHTS, LIABILITIES AND DISABILITIES OF A PUBLIC BODY
7 POLITIC AND CORPORATE.

8 B. ANY CONTRACT ESTABLISHING AN AUTHORITY SHALL SPECIFY ALL OF THE
9 FOLLOWING:

10 1. THE NAME AND PURPOSE OF THE AUTHORITY AND THE PUBLIC HIGHWAYS TO BE
11 PROVIDED.

12 2. THE ESTABLISHMENT AND ORGANIZATION OF THE BOARD OF DIRECTORS IN
13 WHICH ALL LEGISLATIVE POWER OF THE AUTHORITY IS VESTED, INCLUDING:

14 (a) THE NUMBER OF DIRECTORS. EXCEPT AS PROVIDED IN SUBSECTION D, THE
15 BOARD OF DIRECTORS SHALL INCLUDE AT LEAST ONE ELECTED OFFICIAL FROM EACH
16 MEMBER OF THE COMBINATION. ADDITIONAL DIRECTORS REPRESENTING BUSINESS
17 INTERESTS SHALL BE APPOINTED BY A MAJORITY VOTE OF THE MEMBERS OF THE
18 COMBINATION IN A NUMBER EQUAL TO THE NUMBER OF ELECTED OFFICIALS REPRESENTING
19 THE COMBINATION, EXCEPT THE TOTAL NUMBER OF DIRECTORS SHALL BE AN ODD NUMBER.

20 (b) THE MANNER OF THEIR APPOINTMENT, THEIR QUALIFICATIONS AND THE
21 PROCEDURE FOR FILLING VACANCIES.

22 (c) THE OFFICERS OF THE AUTHORITY, THE MANNER OF THEIR APPOINTMENT AND
23 THEIR DUTIES.

24 (d) THE VOTING REQUIREMENTS FOR ACTION BY THE BOARD. UNLESS
25 SPECIFICALLY PROVIDED OTHERWISE, A MAJORITY OF THE VOTING MEMBERS OF THE
26 BOARD CONSTITUTES A QUORUM AND A MAJORITY OF THE QUORUM IS NECESSARY FOR
27 ACTION BY THE BOARD OF DIRECTORS.

28 3. PROVISIONS FOR THE DISTRIBUTION, DISPOSITION OR DIVISION OF ASSETS
29 OF THE AUTHORITY.

30 4. THE BOUNDARIES OF THE AUTHORITY, WHICH MAY INCLUDE TERRITORY THAT,
31 AT THE TIME OF DESIGNATION, IS NOT MORE THAN ONE AND ONE-HALF MILES FROM THE
32 PROPOSED CENTERLINE OF THE PUBLIC HIGHWAY TO BE CONSTRUCTED BUT THAT MAY NOT
33 INCLUDE TERRITORY OUTSIDE OF THE BOUNDARIES OF THE MEMBERS OF THE
34 COMBINATION. THE BOUNDARIES OF THE AUTHORITY MAY NOT INCLUDE TERRITORY THAT,
35 AT THE TIME THE TERRITORY IS INCLUDED WITHIN THE BOUNDARIES OF THE AUTHORITY,
36 IS LOCATED WITHIN THE BOUNDARIES OF A MUNICIPALITY, UNLESS THE MUNICIPALITY

1 IS EITHER A MEMBER OF THE COMBINATION OR CONSENTS TO THE INCLUSION OF THE
2 TERRITORY WITHIN THE BOUNDARIES OF THE AUTHORITY.

3 5. THE TERM OF THE CONTRACT, WHICH MAY BE FOR A DEFINITE TERM OR UNTIL
4 RESCINDED OR TERMINATED, AND THE METHOD, IF ANY, BY WHICH IT MAY BE
5 TERMINATED OR RESCINDED. THE CONTRACT MAY NOT BE RESCINDED IF THE AUTHORITY
6 HAS BONDS OUTSTANDING.

7 6. PROVISIONS FOR AMENDMENT OF THE CONTRACT.

8 7. LIMITATIONS, IF ANY, ON THE POWERS THAT ARE GRANTED BY THIS CHAPTER
9 AND THAT MAY BE EXERCISED BY THE AUTHORITY PURSUANT TO THIS CHAPTER.

10 8. THE CONDITIONS TO BE SATISFIED TO ADD OR DELETE PARTIES TO THE
11 CONTRACT.

12 C. A MUNICIPALITY OR COUNTY SHALL NOT ENTER INTO A CONTRACT
13 ESTABLISHING AN AUTHORITY WITHOUT HOLDING A HEARING. NOTICE OF THE TIME,
14 PLACE AND PURPOSE OF THE HEARING SHALL BE GIVEN BY PUBLICATION IN A NEWSPAPER
15 OF GENERAL CIRCULATION IN THE MUNICIPALITY OR COUNTY, AS APPLICABLE, AT LEAST
16 TEN DAYS BEFORE THE DATE OF THE HEARING.

17 D. THIS STATE, ACTING BY AND THROUGH THE DEPARTMENT AND ON THE
18 APPROVAL OF THE GOVERNOR, SHALL JOIN IN THE CONTRACT ESTABLISHING THE
19 AUTHORITY. THE STATE SHALL HAVE ONE MEMBER ON THE BOARD. THE STATE MEMBER
20 OF THE BOARD SHALL BE APPOINTED BY THE GOVERNOR FOR A TWO YEAR TERM.

21 28-7703. Board of directors

22 A. ALL POWERS, PRIVILEGES AND DUTIES VESTED IN OR IMPOSED ON THE
23 AUTHORITY SHALL BE EXERCISED AND PERFORMED BY AND THROUGH THE BOARD. THE
24 BOARD, BY RESOLUTION, MAY DELEGATE ANY OF THE POWERS OF THE BOARD TO ANY OF
25 THE OFFICERS OR AGENTS OF THE BOARD. TO ENSURE PUBLIC PARTICIPATION IN
26 POLICY DECISIONS, THE BOARD SHALL NOT DELEGATE THE FOLLOWING:

27 1. ADOPTION OF BOARD POLICIES AND PROCEDURES.

28 2. APPROVAL OF FINAL ROADWAY ALIGNMENTS.

29 3. RATIFICATION OF ACQUISITION OF LAND BY NEGOTIATED SALE.

30 4. THE INITIATION OR CONTINUATION OF LEGAL ACTION, NOT INCLUDING
31 TRAFFIC OR TOLL VIOLATIONS.

32 5. ESTABLISHMENT OF FEE AND TOLL POLICIES.

33 B. THE BOARD SHALL ADOPT AND ADHERE TO POLICIES AND PROCEDURES THAT
34 GOVERN ITS CONDUCT AND PROVIDE MEANINGFUL OPPORTUNITIES FOR PUBLIC INPUT.
35 THE POLICIES SHALL INCLUDE STANDARDS AND PROCEDURES FOR CALLING AN EMERGENCY
36 MEETING.

1 C. ANY MEMBER OF THE BOARD SHALL BE DISQUALIFIED FROM VOTING ON ANY
2 ISSUE WITH RESPECT TO WHICH THE MEMBER HAS A CONFLICT OF INTEREST.

3 D. THE BOARD, IN ADDITION TO ALL OTHER POWERS AUTHORIZED BY THIS
4 CHAPTER, MAY DO ALL OF THE FOLLOWING:

5 1. ADOPT BYLAWS.

6 2. FIX THE TIME AND PLACE OF MEETINGS, WHETHER INSIDE OR OUTSIDE THE
7 BOUNDARIES OF THE AUTHORITY, AND THE METHOD OF PROVIDING NOTICE OF THE
8 MEETINGS.

9 3. MAKE AND PASS ORDERS AND RESOLUTIONS NECESSARY FOR THE GOVERNMENT
10 AND MANAGEMENT OF THE AFFAIRS OF THE AUTHORITY AND THE EXECUTION OF THE
11 POWERS VESTED IN THE AUTHORITY.

12 4. ADOPT AND USE A SEAL.

13 5. APPOINT, HIRE AND RETAIN EMPLOYEES AND OTHER CONSULTANTS.

14 6. PRESCRIBE METHODS FOR AUDITING AND ALLOWING OR REJECTING CLAIMS AND
15 DEMANDS AND METHODS FOR THE LETTING OF CONTRACTS FOR THE CONSTRUCTION OF
16 IMPROVEMENTS, WORKS OR STRUCTURES OR FOR THE PERFORMANCE OR FURNISHING OF
17 LABOR, MATERIALS OR SUPPLIES AS MAY BE REQUIRED FOR CARRYING OUT THE PURPOSES
18 OF THIS CHAPTER.

19 7. APPOINT ADVISORY COMMITTEES AND PRESCRIBE THE DUTIES OF THE
20 COMMITTEES.

21 28-7704. Powers of the authority; inclusion or exclusion of
22 property; determination of public highway alignment

23 A. IN ADDITION TO ANY OTHER POWERS GRANTED TO THE AUTHORITY PURSUANT
24 TO THIS CHAPTER, THE AUTHORITY MAY DO ALL OF THE FOLLOWING:

25 1. HAVE PERPETUAL EXISTENCE, EXCEPT AS OTHERWISE PROVIDED IN THE
26 CONTRACT.

27 2. SUE AND BE SUED. ANY OBLIGATION OR LIABILITY OF THE AUTHORITY DOES
28 NOT CREATE AN OBLIGATION OR LIABILITY FOR THIS STATE.

29 3. ENTER INTO CONTRACTS AND AGREEMENTS AFFECTING THE AFFAIRS OF THE
30 AUTHORITY.

31 4. ESTABLISH, COLLECT AND INCREASE OR DECREASE FEES, TOLLS, RATES AND
32 CHARGES FOR TRAVELING ON ANY PUBLIC HIGHWAY FINANCED, CONSTRUCTED, OPERATED
33 OR MAINTAINED BY THE AUTHORITY, WITHOUT ANY SUPERVISION OR REGULATION OF THE
34 FEES, TOLLS, RATES AND CHARGES BY ANY BOARD, AGENCY, DEPARTMENT OR OFFICIAL.
35 FEES, TOLLS, RATES OR CHARGES MAY NOT BE IMPOSED ON PUBLIC TRANSIT.

36 5. PLEDGE ALL OR ANY PORTION OF THE REVENUES TO THE PAYMENT OF BONDS
37 OF THE AUTHORITY.

1 6. CONSTRUCT, FINANCE, OPERATE OR MAINTAIN PUBLIC HIGHWAYS WITHIN THE
2 BOUNDARIES OF THE AUTHORITY, EXCEPT THAT THE AUTHORITY SHALL NOT CONSTRUCT
3 PUBLIC HIGHWAYS IN ANY TERRITORY LOCATED OUTSIDE THE BOUNDARIES OF THE
4 AUTHORITY AND WITHIN THE BOUNDARIES OF A MUNICIPALITY WITHOUT THE CONSENT OF
5 THE GOVERNING BODY OF THE MUNICIPALITY OR WITHIN THE UNINCORPORATED
6 BOUNDARIES OF A COUNTY WITHOUT THE CONSENT OF THE COUNTY BOARD OF
7 SUPERVISORS.

8 7. PURCHASE, TRADE, EXCHANGE, ACQUIRE, BUY, SELL, LEASE, LEASE WITH AN
9 OPTION TO PURCHASE, DISPOSE OF AND ENCUMBER REAL OR PERSONAL PROPERTY AND ANY
10 INTEREST IN THE REAL OR PERSONAL PROPERTY, INCLUDING EASEMENTS AND
11 RIGHTS-OF-WAY, WITHOUT RESTRICTION OR LIMITATION BY OTHER STATUTORY OR
12 CHARTER PROVISIONS.

13 8. ACCEPT REAL OR PERSONAL PROPERTY FOR THE USE OF THE AUTHORITY AND
14 ACCEPT GIFTS AND CONVEYANCES ON TERMS AND CONDITIONS AS THE BOARD MAY
15 APPROVE.

16 B. AN AUTHORITY SHALL NOT ACCEPT OR SPEND FEDERAL MONIES UNLESS THE
17 FEDERAL MONIES ARE IN EXCESS OF FEDERAL MONIES ALLOCATED TO THE REGIONAL
18 TRANSPORTATION PLAN AS DEFINED IN SECTION 28-6351 OR UNLESS THE FEDERAL
19 MONIES ARE SPECIFICALLY AUTHORIZED, ALLOCATED OR MADE AVAILABLE BY THE
20 FEDERAL GOVERNMENT.

21 C. NEITHER THE AUTHORITY OR THE BOARD MAY EXERCISE THE POWER OF
22 EMINENT DOMAIN, BUT ANY MEMBER OF THE COMBINATION PARTICIPATING IN THE
23 AUTHORITY MAY EXERCISE ITS POWER OF EMINENT DOMAIN ON BEHALF OF THE AUTHORITY
24 PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT WITH THE AUTHORITY.

25 D. THE BOARD MAY INCLUDE PROPERTY WITHIN OR EXCLUDE PROPERTY FROM THE
26 BOUNDARIES OF THE AUTHORITY IN THE MANNER PROVIDED IN THIS SUBSECTION.
27 PROPERTY MAY NOT BE INCLUDED WITHIN THE BOUNDARIES OF THE AUTHORITY UNLESS IT
28 IS WITHIN THE BOUNDARIES OF THE MEMBERS OF THE COMBINATION AND IT IS
29 CONTIGUOUS TO PROPERTY WITHIN THE BOUNDARIES OF THE AUTHORITY AT THE TIME OF
30 THE INCLUSION.

31 E. BEFORE ANY INCLUSION OR EXCLUSION OF PROPERTY, THE BOARD SHALL
32 CAUSE NOTICE OF THE PROPOSED INCLUSION OR EXCLUSION TO BE PUBLISHED IN A
33 NEWSPAPER OF GENERAL CIRCULATION WITHIN THE BOUNDARIES OF THE AUTHORITY AND
34 CAUSE THE NOTICE TO BE MAILED TO THE DEPARTMENT AND TO THE OWNERS OF PROPERTY
35 TO BE INCLUDED OR EXCLUDED AT THE LAST KNOWN ADDRESS DESCRIBED FOR THE OWNERS
36 IN THE REAL ESTATE RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.
37 THE NOTICE SHALL DESCRIBE THE PROPERTY TO BE INCLUDED WITHIN OR EXCLUDED FROM

1 THE BOUNDARIES OF THE AUTHORITY, SHALL SPECIFY THE DATE, TIME AND PLACE AT
2 WHICH THE BOARD SHALL HOLD A PUBLIC HEARING ON THE PROPOSED INCLUSION OR
3 EXCLUSION AND SHALL STATE THAT PERSONS HAVING OBJECTIONS TO THE INCLUSION OR
4 EXCLUSION MAY APPEAR AT THE HEARING TO OBJECT TO THE PROPOSED INCLUSION OR
5 EXCLUSION. THE DATE OF THE PUBLIC HEARING CONTAINED IN THE NOTICE SHALL BE
6 NOT LESS THAN TWENTY DAYS AFTER THE MAILING AND PUBLICATION OF THE NOTICE.
7 THE BOARD AT THE TIME AND PLACE DESIGNATED IN THE NOTICE OR AT TIMES AND
8 PLACES TO WHICH THE HEARING MAY BE ADJOURNED SHALL HEAR ALL OBJECTIONS TO THE
9 PROPOSED INCLUSION OR EXCLUSION. ON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF
10 THE MEMBERS OF THE BOARD, THE BOARD MAY ADOPT A RESOLUTION INCLUDING OR
11 EXCLUDING ALL OR ANY PORTION OF THE PROPERTY DESCRIBED IN THE NOTICE. ON THE
12 ADOPTION OF THE RESOLUTION, THE PROPERTY SHALL BE INCLUDED WITHIN OR EXCLUDED
13 FROM THE BOUNDARIES OF THE AUTHORITY AS SET FORTH IN THE RESOLUTION. THE
14 RESOLUTION MAY BE ADOPTED BY THE BOARD WITHOUT AMENDING THE CONTRACT REQUIRED
15 BY SECTION 28-7702. THE RESOLUTION SHALL BE FILED WITH THE DIRECTOR WHO
16 SHALL CAUSE THE RESOLUTION TO BE RECORDED IN THE REAL ESTATE RECORDS OF EACH
17 COUNTY THAT HAS TERRITORY INCLUDED IN THE BOUNDARIES OF THE AUTHORITY.

18 F. ALL PROPERTY EXCLUDED FROM THE AUTHORITY SHALL BE SUBJECT TO THE
19 REVENUE RAISING POWERS OF THE AUTHORITY ONLY TO THE EXTENT THAT THE POWERS
20 HAVE BEEN EXERCISED BY THE AUTHORITY AGAINST THE PROPERTY BEFORE THE
21 EXCLUSION AND TO THE EXTENT REQUIRED TO COMPLY WITH AGREEMENTS WITH THE
22 HOLDERS OF BONDS OUTSTANDING AT THE TIME OF THE EXCLUSION. ALL PROPERTY
23 INCLUDED WITHIN THE AUTHORITY SHALL BE SUBJECT TO THE REVENUE RAISING POWERS
24 OF THE AUTHORITY. THIS SECTION DOES NOT AFFECT OR INCREASE PROPERTY TAXES IN
25 THE AFFECTED TERRITORY OR JURISDICTION.

26 G. ON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS OF THE BOARD,
27 THE BOARD MAY DETERMINE THE LOCATION OF THE ALIGNMENT OF THE PUBLIC HIGHWAY,
28 SUBJECT ONLY TO ANY LIMITATION EXISTING PURSUANT TO SUBSECTION A, PARAGRAPH 6
29 OF THIS SECTION.

30 28-7705. Traffic laws; toll collection; civil penalty

31 A. THE TRAFFIC LAWS OF THIS STATE AND THOSE OF ANY MUNICIPALITY
32 THROUGH WHICH A PUBLIC HIGHWAY CONSTRUCTED, OPERATED OR MAINTAINED BY AN
33 AUTHORITY PASSES AND THE AUTHORITY'S RULES REGARDING TOLL COLLECTION AND
34 ENFORCEMENT PERTAIN TO AND GOVERN THE USE OF THE PUBLIC HIGHWAY. STATE AND
35 LOCAL LAW ENFORCEMENT AUTHORITIES MAY ENTER INTO TRAFFIC AND TOLL ENFORCEMENT
36 AGREEMENTS WITH AUTHORITIES.

1 B. ANY AUTHORITY MAY ADOPT, BY RESOLUTION OF ITS BOARD, RULES
2 PERTAINING TO THE ENFORCEMENT OF TOLL COLLECTION AND EVASION AND PROVIDING
3 FOR A CIVIL PENALTY FOR TOLL EVASION. THE CIVIL PENALTY ESTABLISHED BY AN
4 AUTHORITY FOR ANY TOLL EVASION SHALL BE AT LEAST TEN DOLLARS AND NOT MORE
5 THAN ONE HUNDRED FIFTY DOLLARS IN ADDITION TO ANY COSTS IMPOSED BY A COURT.
6 AN AUTHORITY MAY USE STATE OF THE ART TECHNOLOGY TO AID IN THE COLLECTION OF
7 TOLLS AND ENFORCEMENT OF TOLL VIOLATIONS. THE USE OF STATE OF THE ART
8 TECHNOLOGY TO AID IN ENFORCEMENT OF TOLL VIOLATIONS IS GOVERNED SOLELY BY
9 THIS SECTION.

10 C. ANY PERSON WHO EVADES A TOLL ESTABLISHED BY AN AUTHORITY IS SUBJECT
11 TO THE CIVIL PENALTY ESTABLISHED BY THAT AUTHORITY FOR TOLL EVASION. ANY
12 PEACE OFFICER MAY ISSUE COMPLAINTS FOR TOLL EVASION IF AUTHORIZED PURSUANT TO
13 A MUNICIPAL ORDINANCE.

14 D. AT ANY TIME THAT A PERSON IS CITED FOR TOLL EVASION, THE PERSON
15 OPERATING THE MOTOR VEHICLE INVOLVED SHALL BE GIVEN A NOTICE IN THE FORM OF A
16 MUNICIPAL SUMMONS AND COMPLAINT.

17 E. IF A MUNICIPAL SUMMONS AND COMPLAINT IS ISSUED, THE ADJUDICATION OF
18 THE VIOLATION SHALL BE CONDUCTED AND THE FORMAT OF THE SUMMONS AND COMPLAINT
19 SHALL BE DETERMINED PURSUANT TO THE TERMS OF THE MUNICIPAL ORDINANCE
20 AUTHORIZING ISSUANCE OF A SUMMONS AND COMPLAINT. THE PENALTY ON CONVICTION
21 FOR VIOLATION OF A MUNICIPAL ORDINANCE FOR TOLL EVASION SHALL NOT EXCEED THE
22 LIMIT ESTABLISHED IN SUBSECTION B.

23 F. MUNICIPAL AND JUSTICE COURTS HAVE JURISDICTION TO TRY ALL CASES
24 ARISING UNDER MUNICIPAL ORDINANCES AND STATE LAWS GOVERNING THE USE OF A
25 PUBLIC HIGHWAY OPERATED BY AN AUTHORITY AND ARISING UNDER THE TOLL EVASION
26 CIVIL PENALTY RULES ADOPTED BY AUTHORITIES. VENUE FOR THE CASES SHALL BE IN
27 THE MUNICIPALITY OR COUNTY IN WHICH THE ALLEGED VIOLATION OF MUNICIPAL
28 ORDINANCE OR STATE LAW OR OF THE AUTHORITY RULE OCCURRED.

29 G. AN AUTHORITY MAY FILE A CERTIFIED COPY OF AN ORDER IMPOSING A TOLL,
30 FEE AND CIVIL PENALTY THAT IS ENTERED BY THE HEARING OFFICER IN AN
31 ADJUDICATION OF A TOLL EVASION WITH THE CLERK OF THE COURT IN THE COUNTY IN
32 WHICH THE VIOLATION OCCURRED AT ANY TIME AFTER THE ORDER IS ENTERED. THE
33 CLERK SHALL RECORD THE ORDER IN THE JUDGMENT BOOK OF THE COURT AND ENTER IT
34 IN THE JUDGMENT DOCKET. THE ORDER SHALL HAVE THE EFFECT OF A JUDGMENT OF THE
35 COURT AND EXECUTION MAY ISSUE ON THE ORDER OUT OF THE COURT AS IN OTHER
36 CASES.

1 H. NOTWITHSTANDING THE SPECIFIC REMEDIES PROVIDED BY THIS SECTION, AN
2 AUTHORITY HAS EVERY REMEDY AVAILABLE UNDER THE LAW TO ENFORCE UNPAID TOLLS
3 AND FEES AS DEBTS OWED TO THE AUTHORITY.

4 I. THE AGGREGATE AMOUNT OF PENALTIES, EXCLUSIVE OF COURT COSTS,
5 COLLECTED AS A RESULT OF CIVIL PENALTIES IMPOSED PURSUANT TO RESOLUTIONS
6 ADOPTED AS AUTHORIZED IN SUBSECTION B SHALL BE REMITTED TO THE AUTHORITY IN
7 WHOSE NAME THE CIVIL PENALTY ASSESSMENT NOTICE WAS ISSUED AND SHALL BE
8 APPLIED BY THE AUTHORITY TO DEFRAY THE COSTS AND EXPENSES OF ENFORCING THE
9 LAWS OF THIS STATE AND THE RULES OF THE AUTHORITY. IF A MUNICIPAL SUMMONS OR
10 COMPLAINT IS ISSUED, THE AGGREGATE PENALTY SHALL BE APPORTIONED PURSUANT TO
11 THE TERMS OF ANY ENFORCEMENT AGREEMENT.

12 J. IN ADDITION TO THE PENALTY ASSESSMENT PROCEDURE PROVIDED FOR IN
13 SUBSECTION C, IF AN INSTANCE OF TOLL EVASION IS EVIDENCED BY TECHNOLOGY NOT
14 INVOLVING A PEACE OFFICER, A CIVIL PENALTY ASSESSMENT NOTICE MAY BE ISSUED
15 AND SENT BY FIRST CLASS MAIL, OR BY ANY MAIL DELIVERY SERVICE OFFERED BY AN
16 ENTITY OTHER THAN THE UNITED STATES POSTAL SERVICE THAT IS EQUIVALENT TO OR
17 SUPERIOR TO FIRST CLASS MAIL WITH RESPECT TO DELIVERY SPEED, RELIABILITY AND
18 PRICE, BY THE AUTHORITY TO THE REGISTERED OWNER OF THE MOTOR VEHICLE
19 INVOLVED. THE NOTICE SHALL CONTAIN THE NAME AND ADDRESS OF THE REGISTERED
20 OWNER OF THE VEHICLE INVOLVED, THE LICENSE NUMBER OF THE VEHICLE INVOLVED,
21 THE TIME AND LOCATION OF THE VIOLATION, THE AMOUNT OF THE PENALTY PRESCRIBED
22 FOR THE VIOLATION, A PLACE FOR THE REGISTERED OWNER OF THE VEHICLE TO EXECUTE
23 A SIGNED ACKNOWLEDGMENT OF LIABILITY FOR THE CITED VIOLATION AND OTHER
24 INFORMATION AS MAY BE REQUIRED BY LAW TO CONSTITUTE NOTICE AS A COMPLAINT TO
25 APPEAR FOR ADJUDICATION OF A TOLL EVASION CIVIL PENALTY.

26 K. IF THE PRESCRIBED PENALTY IS NOT PAID WITHIN TWENTY DAYS, IN ORDER
27 TO ENSURE THAT ADEQUATE NOTICE HAS BEEN GIVEN, THE AUTHORITY SHALL SEND A
28 SECOND NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY MAIL
29 DELIVERY SERVICE OFFERED BY AN ENTITY OTHER THAN THE UNITED STATES POSTAL
30 SERVICE THAT IS EQUIVALENT TO OR SUPERIOR TO CERTIFIED MAIL, RETURN RECEIPT
31 REQUESTED, WITH RESPECT TO RECEIPT VERIFICATION AND DELIVERY SPEED,
32 RELIABILITY AND PRICE. THE NOTICE SHALL SPECIFY THAT THE REGISTERED OWNER OF
33 THE VEHICLE MAY PAY THE SAME PENALTY AT ANY TIME BEFORE THE SCHEDULED
34 HEARING. IF THE REGISTERED OWNER OF THE VEHICLE DOES NOT PAY THE PRESCRIBED
35 TOLL, FEE AND CIVIL PENALTY WITHIN TWENTY DAYS AFTER THE NOTICE, THE CIVIL
36 PENALTY NOTICE CONSTITUTES A COMPLAINT TO APPEAR FOR ADJUDICATION OF A TOLL
37 EVASION IN COURT AND THE REGISTERED OWNER OF THE VEHICLE, WITHIN THE TIME

1 SPECIFIED IN THE CIVIL PENALTY NOTICE, SHALL FILE AN ANSWER TO THE COMPLAINT
2 IN THE MANNER SPECIFIED IN THE NOTICE. IF THE REGISTERED OWNER OF THE
3 VEHICLE FAILS TO PAY IN FULL THE OUTSTANDING TOLL, FEE AND CIVIL PENALTY SET
4 FORTH IN THE NOTICE OR TO APPEAR AND ANSWER THE NOTICE AS SPECIFIED IN THE
5 NOTICE, THE REGISTERED OWNER OF THE VEHICLE IS DEEMED TO HAVE ADMITTED
6 RESPONSIBILITY AND WAIVED THE RIGHT TO A HEARING AND A FINAL ORDER FINDING
7 RESPONSIBILITY IN DEFAULT AGAINST THE REGISTERED OWNER OF THE VEHICLE MAY BE
8 ENTERED.

9 ARTICLE 2. FINANCING

10 28-7741. Bonds

11 A. THE AUTHORITY MAY ISSUE BONDS FOR ANY OF ITS CORPORATE PURPOSES.
12 THE BONDS SHALL BE ISSUED PURSUANT TO RESOLUTION OF THE BOARD AND SHALL BE
13 PAYABLE SOLELY OUT OF ALL OR A SPECIFIED PORTION OF THE REVENUES AS
14 DESIGNATED BY THE BOARD.

15 B. AS PROVIDED IN THE RESOLUTION OF THE AUTHORITY UNDER WHICH THE
16 BONDS ARE AUTHORIZED TO BE ISSUED OR AS PROVIDED IN A TRUST INDENTURE BETWEEN
17 THE AUTHORITY AND ANY COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST
18 POWERS, BONDS MAY:

19 1. BE EXECUTED AND DELIVERED BY THE AUTHORITY AT TIMES PROVIDED BY THE
20 AUTHORITY.

21 2. BE IN FORM AND DENOMINATIONS AND INCLUDE TERMS AND MATURITIES AS
22 PROVIDED BY THE AUTHORITY.

23 3. BE SUBJECT TO OPTIONAL OR MANDATORY REDEMPTION BEFORE MATURITY WITH
24 OR WITHOUT A PREMIUM.

25 4. BE IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO
26 PRINCIPAL OR INTEREST, OR BOTH.

27 5. BEAR CONVERSION PRIVILEGES.

28 6. BE PAYABLE IN INSTALLMENTS AND AT TIMES NOT EXCEEDING FORTY YEARS
29 AFTER THE DATE OF THE BOND ISSUANCE.

30 7. BE PAYABLE INSIDE OR OUTSIDE THIS STATE.

31 8. BEAR INTEREST AT RATES PER ANNUM THAT MAY BE FIXED OR VARY
32 ACCORDING TO INDEX, PROCEDURE OR FORMULA OR AS DETERMINED BY THE AUTHORITY OR
33 ITS AGENTS WITHOUT REGARD TO ANY INTEREST RATE LIMITATION APPEARING IN ANY
34 OTHER LAW OF THIS STATE.

35 9. BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE
36 AUTHORITY.

1 10. BE EVIDENCED IN A MANNER AND BE EXECUTED BY OFFICERS OF THE
2 AUTHORITY, INCLUDING THE USE OF ONE OR MORE FAX SIGNATURES, IF AT LEAST ONE
3 MANUAL SIGNATURE APPEARS ON THE BONDS, THAT MAY BE EITHER OF AN OFFICER OF
4 THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME.

5 11. CONTAIN PROVISIONS NOT INCONSISTENT WITH THIS CHAPTER.

6 C. BONDS ISSUED UNDER THIS ARTICLE:

7 1. ARE PAYABLE ONLY ACCORDING TO THEIR TERMS.

8 2. ARE OBLIGATIONS OF THE AUTHORITY.

9 3. ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE OR OF
10 ANY MEMBER OF THE COMBINATION PARTICIPATING IN THE AUTHORITY. THE MEMBERS OF
11 THE BOARD AND THE PERSONS WHO EXECUTE THE BONDS ARE NOT PERSONALLY LIABLE FOR
12 THE PAYMENT OF THE BONDS.

13 4. DO NOT CONSTITUTE A DEBT OF THIS STATE OR OF ANY MEMBER OF THE
14 COMBINATION PARTICIPATING IN THE AUTHORITY.

15 5. ARE NOT ENFORCEABLE AGAINST THIS STATE. PAYMENT OF THE BONDS IS
16 NOT ENFORCEABLE OUT OF ANY MONIES OR ASSETS OF THE AUTHORITY OTHER THAN THE
17 REVENUE SPECIFICALLY PLEDGED AND ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF
18 THE HOLDER OR HOLDERS OF THE BONDS.

19 6. SHALL BE FULLY INSURED OR GUARANTEED AS TO THE TIMELY PAYMENT OF
20 PRINCIPAL AND INTEREST BY A FINANCIAL ENTITY AND SHALL BE RATED "AA" OR
21 BETTER BY A NATIONALLY RECOGNIZED RATING AGENCY.

22 D. THE BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT A PRICE AND IN A
23 MANNER AND TIME AS DETERMINED BY THE BOARD AND THE BOARD MAY PAY ALL FEES,
24 EXPENSES AND COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
25 CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE OF SALE OF
26 THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND SELL BONDS, TO FIX
27 INTEREST RATES AND TO TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER THE
28 BONDS MAY BE DELEGATED TO AN OFFICER OR AGENT OF THE AUTHORITY. ANY
29 OUTSTANDING BONDS MAY BE REFUNDED BY THE AUTHORITY. ALL BONDS AND ANY
30 INTEREST COUPONS ARE NEGOTIABLE INSTRUMENTS.

31 E. THE RESOLUTION OR TRUST INDENTURE AUTHORIZING THE ISSUANCE OF THE
32 BONDS MAY PLEDGE ALL OR A PORTION OF THE REVENUES OF THE AUTHORITY, MAY
33 CONTAIN PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF
34 HOLDERS OF ANY OF THE BONDS AS THE AUTHORITY DEEMS APPROPRIATE, MAY SET FORTH
35 THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS AND MAY CONTAIN
36 PROVISIONS THAT THE AUTHORITY DEEMS APPROPRIATE FOR THE SECURITY OF THE
37 HOLDERS OF THE BONDS, INCLUDING PROVISIONS FOR LETTERS OF CREDIT, INSURANCE,

1 STANDBY CREDIT AGREEMENTS OR OTHER FORMS OF CREDIT INSURING TIMELY PAYMENT OF
2 THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE PURCHASE PRICE.

3 F. ANY PLEDGE OF REVENUES OR PROPERTY MADE BY THE AUTHORITY OR BY ANY
4 PERSON OR GOVERNMENTAL UNIT WITH WHICH THE AUTHORITY CONTRACTS SHALL BE VALID
5 AND BINDING FROM THE TIME THE PLEDGE IS MADE. THE REVENUES OR PROPERTY SO
6 PLEDGED SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY
7 PHYSICAL DELIVERY OR FURTHER ACT AND THE LIEN OF THE PLEDGE SHALL BE VALID
8 AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT
9 OR OTHERWISE AGAINST THE PLEDGING PARTY, IRRESPECTIVE OF WHETHER THE CLAIMING
10 PARTY HAS NOTICE OF THE LIEN. THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED
11 NEED NOT BE RECORDED OR FILED.

12 G. THE MEMBERS OF THE BOARD, EMPLOYEES OF THE AUTHORITY OR ANY PERSON
13 EXECUTING THE BONDS SHALL NOT BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO
14 ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE OF THE
15 BONDS.

16 H. THE AUTHORITY MAY PURCHASE ITS BONDS OUT OF ANY AVAILABLE MONIES
17 AND MAY HOLD, PLEDGE, CANCEL OR RESELL BONDS SUBJECT TO AND IN ACCORDANCE
18 WITH AGREEMENTS WITH THE HOLDERS.

19 28-7742. Cooperative powers

20 THE AUTHORITY MAY CONTRACT WITH THE DEPARTMENT OR ANY PERSON TO DO ANY
21 OF THE FOLLOWING:

22 1. ACCEPT CONTRIBUTIONS, LOANS OR ADVANCES FROM ANY PERSON WITH
23 RESPECT TO THE FINANCING, CONSTRUCTION, OPERATION OR MAINTENANCE OF A PUBLIC
24 HIGHWAY AND, IN CONNECTION WITH ANY LOAN OR ADVANCE, ENTER INTO CONTRACTS
25 ESTABLISHING THE REPAYMENT TERMS.

26 2. ENTER INTO CONTRACTS TO FINANCE, CONSTRUCT, OPERATE OR MAINTAIN A
27 SPECIFIED PUBLIC HIGHWAY.

28 3. ENTER INTO JOINT OPERATING CONTRACTS CONCERNING A PUBLIC HIGHWAY.

29 4. COOPERATE IN ACQUIRING EASEMENTS OR RIGHTS-OF-WAY FOR A PUBLIC
30 HIGHWAY.

31 5. DESIGNATE A PUBLIC HIGHWAY AS PART OF THE STATE HIGHWAY SYSTEM OR A
32 COUNTY HIGHWAY SYSTEM IF THE PERSON WITH JURISDICTION OVER THE HIGHWAY SYSTEM
33 CONSENTS TO THE DESIGNATION.

34 28-7743. Powers of governmental units

1. SELL, LEASE, LOAN, GRANT, CONVEY, ASSIGN, TRANSFER AND OTHERWISE DISPOSE TO THE AUTHORITY ANY REAL OR PERSONAL PROPERTY OR INTERESTS.

3. TRANSFER OR ASSIGN TO THE AUTHORITY ANY CONTRACTS THAT MAY HAVE BEEN AWARDED BY THE GOVERNMENTAL UNIT FOR CONSTRUCTION, OPERATION OR MAINTENANCE OF ANY PUBLIC HIGHWAY.

28-7744. Notice; reports on authorities

B. AN AUTHORITY SHALL REPORT ANNUALLY IN AUGUST TO THE DEPARTMENT OF TRANSPORTATION ON ITS ACTIVITIES DURING THE PRECEDING TWELVE MONTHS AND ON ITS PROPOSED ACTIVITIES DURING THE SUCCEEDING TWELVE MONTHS.

A. AN AUTHORITY AND A COUNTY OR MUNICIPALITY THAT IS A MEMBER OF THE COMBINATION MAY ENTER INTO A CONTRACT BY WHICH THE COUNTY OR MUNICIPALITY ASSIGNS ITS LIABILITIES AND OBLIGATIONS AND THE AUTHORITY ASSUMES LIABILITIES AND OBLIGATIONS UNDER ANY CONTRACT, RESOLUTION, ORDINANCE OR OTHER PUBLIC ACT THAT THE COUNTY OR MUNICIPALITY HAS ENTERED INTO OR ADOPTED WITH RESPECT TO

1 THE FINANCING, CONSTRUCTION, OPERATION OR MAINTENANCE OF A PUBLIC HIGHWAY,
2 INCLUDING BONDS THAT IT HAS ISSUED.

3 B. A COUNTY OR MUNICIPALITY THAT HAS ISSUED BONDS TO FINANCE A PUBLIC
4 HIGHWAY BEFORE THE ESTABLISHMENT OF AN AUTHORITY AND THAT HAS LENT ALL OR A
5 PORTION OF THE PROCEEDS OF THE BONDS TO THE AUTHORITY SHALL NOT TAKE ANY
6 ACTION OR FAIL TO TAKE ANY ACTION THAT WOULD LIMIT THE AVAILABILITY OF THE
7 PROCEEDS OF THE BONDS TO THE AUTHORITY OR ADVERSELY AFFECT THE ABILITY OF THE
8 AUTHORITY TO FINANCE THE PUBLIC HIGHWAY UNLESS THE AUTHORITY CONSENTS OR
9 UNLESS ACTION OR FAILURE TO ACT IS REQUIRED BY THE AGREEMENTS WITH THE
10 HOLDERS OF THE BONDS. IF A COUNTY OR MUNICIPALITY HAS ASSIGNED TO AN
11 AUTHORITY ITS RIGHTS AND PRIVILEGES REGARDING BONDS ISSUED TO FINANCE A
12 PUBLIC HIGHWAY, THE COUNTY OR MUNICIPALITY SHALL TAKE ANY ACTION REQUESTED BY
13 THE AUTHORITY IN CONNECTION WITH THE BONDS AND THE DOCUMENTS GOVERNING THE
14 BONDS. A COUNTY OR MUNICIPALITY THAT HAS ASSIGNED TO AN AUTHORITY ALL OF ITS
15 RIGHTS AND PRIVILEGES REGARDING BONDS ISSUED BY THE COUNTY OR MUNICIPALITY TO
16 FINANCE A PUBLIC HIGHWAY SHALL NOT HAVE ANY FINANCIAL LIABILITY WITH RESPECT
17 TO THE REPAYMENT OF THE BONDS EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN THE
18 BONDS OR THE ASSIGNMENT. THE ASSUMPTION OF OBLIGATIONS AND LIABILITIES BY AN
19 AUTHORITY PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO BE THE CREATION OF
20 ANY NEW DEBT OR OBLIGATION FOR THE PURPOSES OF THE CONSTITUTION OR LAWS OF
21 THIS STATE.

22 C. SUBSECTION B MAY BE ENFORCED BY THE AUTHORITY FILING AN ACTION FOR
23 MANDAMUS OR INJUNCTIVE RELIEF WITH THE SUPERIOR COURT. THE SUPERIOR COURT
24 SHALL ENTER AN ORDER WITHIN THIRTY DAYS AFTER THE FILING OF ANY ACTION.

25 28-7746. Investments; deposits

26 THE AUTHORITY MAY INVEST OR DEPOSIT ANY MONIES. IN ADDITION, THE
27 AUTHORITY MAY DIRECT A CORPORATE TRUSTEE THAT HOLDS MONIES OF THE AUTHORITY
28 TO INVEST OR DEPOSIT SUCH MONIES IN INVESTMENTS OR DEPOSITS IF THE BOARD
29 DETERMINES, BY RESOLUTION, THAT THE INVESTMENT OR DEPOSIT MEETS THE STANDARD
30 ESTABLISHED BY THE BOARD AND THE INVESTMENT WILL ASSIST THE AUTHORITY IN THE
31 FINANCING, CONSTRUCTION, MAINTENANCE OR OPERATION OF PUBLIC HIGHWAYS.

32 28-7747. Bonds eligible for investment

33 ALL BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, INSURANCE
34 COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES AND OTHER
35 FIDUCIARIES MAY LEGALLY INVEST ANY MONIES WITHIN THEIR CONTROL IN ANY BONDS
36 ISSUED UNDER THIS CHAPTER.

37 28-7748. Exemption from taxation

1 THE INCOME OR OTHER REVENUES OF THE AUTHORITY, ALL PROPERTIES AT ANY
2 TIME OWNED BY THE AUTHORITY, ANY BONDS ISSUED BY THE AUTHORITY AND THE
3 TRANSFER OF AND THE INCOME FROM ANY BONDS ISSUED BY THE AUTHORITY ARE EXEMPT
4 FROM ALL TAXATION AND ASSESSMENTS IN THIS STATE. IN THE RESOLUTION OR
5 INDENTURE AUTHORIZING THE BONDS, THE AUTHORITY MAY WAIVE THE EXEMPTION FROM
6 FEDERAL INCOME TAXATION FOR INTEREST ON THE BONDS. THIS SECTION DOES NOT
7 HAVE ANY EFFECT OR IMPLICATION ON ANY STATUTORY OR CONSTITUTIONAL LIMITATION
8 ON INDEBTEDNESS, TAXATION OR EXPENDITURES OF ANY MEMBER OF THE COMBINATION
9 PARTICIPATING IN THE AUTHORITY.

10 28-7749. No action maintainable after thirty days

11 AN ACTION OR PROCEEDING, AT LAW OR IN EQUITY, TO REVIEW ANY ACTS OR
12 PROCEEDINGS OR TO QUESTION THE VALIDITY OR ENJOIN THE PERFORMANCE OF ANY ACTS
13 OR PROCEEDINGS OR THE ISSUANCE OF ANY BONDS, OR FOR ANY OTHER RELIEF AGAINST
14 OR FROM ANY ACTS OR PROCEEDINGS DONE UNDER THIS CHAPTER, WHETHER BASED ON
15 IRREGULARITIES OR JURISDICTIONAL DEFECTS, SHALL NOT BE MAINTAINED, UNLESS
16 COMMENCED WITHIN THIRTY DAYS AFTER THE PERFORMANCE OF THE ACT OR PROCEEDING
17 OR THE EFFECTIVE DATE, AND SHALL BE PERPETUALLY BARRED AFTER THE THIRTY DAYS.

18 28-7750. Judicial examination of powers, acts, proceedings or
19 contracts of an authority

20 THE BOARD MAY FILE A PETITION AT ANY TIME IN THE SUPERIOR COURT IN ANY
21 COUNTY IN WHICH THE AUTHORITY IS LOCATED, WHOLLY OR IN PART, PRAYING FOR A
22 JUDICIAL EXAMINATION AND DETERMINATION OF ANY POWER CONFERRED TO THE
23 AUTHORITY, ANY REVENUE RAISING POWER EXERCISED OR TO BE EXERCISED BY THE
24 AUTHORITY OR ANY ACT, PROCEEDING OR CONTRACT OF THE AUTHORITY, WHETHER OR NOT
25 THE CONTRACT HAS BEEN EXECUTED.

26 Sec. 4. Section 35-701, Arizona Revised Statutes, is amended to read:

27 35-701. Definitions

28 In this chapter, unless the context otherwise requires:

29 1. "Corporation" means any corporation organized as an authority as
30 provided in this chapter.

31 2. "Designated area" means any area of this state which is either
32 designated pursuant to section 36-1479 as a slum or blighted area as defined
33 in section 36-1471, designated by regulation as a pocket of poverty or a
34 neighborhood strategy area by the United States department of housing and
35 urban development pursuant to title I of the housing and community
36 development act of 1977 (P.L. 95-128; 42 United States Code sections 5301
37 through 5320), as amended, and the department of housing and urban

1 development act (P.L. 89-174; 42 United States Code section 3535(d)) or
2 designated by the United States department of housing and urban development
3 as an empowerment or enterprise zone pursuant to the federal omnibus budget
4 reconciliation act of 1993 (P.L. 103-66; 26 United States Code section
5 1391(g)) or an area certified as an enterprise zone pursuant to section
6 41-1524, subsection B.

7 3. "Governing body" means:

8 (a) The board or body in which the general legislative powers of the
9 municipality or the county are vested.

10 (b) The Arizona board of regents with respect to a corporation formed
11 with the permission of the Arizona board of regents.

12 4. "Income" means gross earnings from wages, salary, commissions,
13 bonuses or tips from all jobs, net earnings from such person's or family's
14 own nonfarm business, professional practice or partnership, and net earnings
15 from such person's or family's own farm. Income includes income, other than
16 earnings, that consists of amounts received from social security or railroad
17 retirement, interest, dividends, veterans payments, pensions and other
18 regular payments, public assistance or welfare payments, including aid for
19 dependent children, old age assistance, general assistance and aid to the
20 blind or totally disabled, but excluding separate payments for hospital or
21 other medical care.

22 5. "Manufactured house" means a structure that is manufactured in a
23 factory after June 15, 1976, that is delivered to a homesite in more than one
24 section and that is placed on a permanent foundation. The dimensions of the
25 completed house shall not be less than twenty feet by forty feet, the roof
26 must be sloping, the siding and roofing must be the same as those found in
27 site-built houses and the house must be eligible for thirty year real estate
28 mortgage financing.

29 6. "Municipality" or "county" means the Arizona board of regents or
30 any incorporated city or town, including charter cities, or any county in
31 this state in which a corporation may be organized and in which it is
32 contemplated the corporation will function.

33 7. "Persons of low and moderate income" means, for the purposes of
34 financing owner-occupied single family dwelling units in areas which the
35 municipality has found, pursuant to section 36-1479, to be slum or blighted
36 areas, as defined in section 36-1471, persons and families whose income does
37 not exceed two and one-half times the median family income of this state. In

1 all other areas it means persons and families whose income does not exceed
2 one and one-half times the median family income of this state.

3 8. "Project" means any land, any building or any other improvement and
4 all real and personal properties, including machinery and equipment whether
5 or not now in existence or under construction and whether located within or
6 without this state or the municipality or county approving the formation of
7 the corporation, that are suitable for any of the following:

8 (a) With respect to a corporation formed with the permission of a
9 municipality or county other than the Arizona board of regents:

10 (i) Any enterprise for the manufacturing, processing or assembling of
11 any agricultural or manufactured products.

12 (ii) Any commercial enterprise for the storing, warehousing,
13 distributing or selling of products of agriculture, mining or industry, or of
14 processes related thereto, including research and development.

15 (iii) Any office building or buildings for use as corporate or company
16 headquarters or regional offices or the adaptive use for offices of any
17 building within this state that is on the national register of historic
18 places or rehabilitation of residential buildings located in registered
19 historic neighborhoods.

20 (iv) A health care institution as defined in section 36-401.

21 (v) Residential real property for dwelling units located within the
22 municipality or county approving the formation of the corporation and, in the
23 case of a county, whether or not also within a municipality that is within
24 the county.

25 (vi) Repairing or rehabilitating single family dwelling units or
26 constructing or repairing residential fences and walls.

27 (vii) Convention or trade show facilities.

28 (viii) Airports, docks, wharves, mass commuting facilities, parking
29 facilities or storage or training facilities directly related to any of the
30 facilities as provided in this item.

31 (ix) Sewage or solid waste disposal facilities or facilities for the
32 furnishing of electric energy, gas or water.

33 (x) Industrial park facilities.

34 (xi) Air or water pollution control facilities.

35 (xii) Any educational institution that is operated by a nonprofit
36 educational organization that is exempt from taxation under section 501(c)(3)
37 of the United States internal revenue code and that is not otherwise funded

1 by state monies, any educational institution or organization that is
2 established under title 15, chapter 1, article 8 and that is owned by a
3 nonprofit organization, any private nonsectarian school or any private
4 nonsectarian organization established for the purpose of funding a joint
5 technological education school district.

6 (xiii) Research and development facilities.

7 (xiv) Commercial enterprises, including facilities for office,
8 recreational, hotel, motel and service uses if the facilities authorized by
9 this item are to be located in a designated area.

10 (xv) A child welfare agency, as defined in section 8-501, owned and
11 operated by a nonprofit organization.

12 ~~(xvi) A transportation facility constructed or operated pursuant to~~
13 ~~title 28, chapter 22, article 1 or 2.~~

14 ~~(xvii)~~ (xvi) A museum operated by a nonprofit organization.

15 ~~(xviii)~~ (xvii) Facilities owned or operated by a nonprofit
16 organization described in section 501(c) of the United States internal
17 revenue code of 1986.

18 ~~(xix)~~ (xviii) New or existing correctional facilities within this
19 state.

20 (b) With respect to a corporation formed with the permission of the
21 Arizona board of regents, any facility consisting of classrooms, lecture
22 halls or conference centers or any facility for research and development or
23 for manufacturing, processing, assembling, marketing, storing and
24 transferring items developed through or connected with research and
25 development or in which the results of such research and development are
26 utilized, but only if the facility is located in an area designated as a
27 research park by the Arizona board of regents.

28 9. "Property" means any land, improvements thereon, buildings and any
29 improvements thereto, machinery and equipment of any and all kinds necessary
30 to a project and any other personal properties deemed necessary in connection
31 with a project.

32 10. "Research park" means an area of land that has been designated by
33 the Arizona board of regents as a research park for a university and that, at
34 the date of designation, is owned by this state or by the Arizona board of
35 regents.

36 11. "Single family dwelling unit" includes any new, used or
37 manufactured house that meets the insuring requirements of the federal

1 housing administration, the veterans administration or any other insuring
2 entity of the United States government or any private mortgage insurance or
3 surety company that is approved by the federal home loan mortgage corporation
4 or the federal national mortgage association.

5 Sec. 5. Section 42-5069, Arizona Revised Statutes, is amended to read:

6 42-5069. Commercial lease classification; definitions

7 A. The commercial lease classification is comprised of the business of
8 leasing for a consideration the use or occupancy of real property.

9 B. A person who, as a lessor, leases or rents for a consideration
10 under one or more leases or rental agreements the use or occupancy of real
11 property that is used by the lessee for commercial purposes is deemed to be
12 engaged in business and subject to the tax imposed by article 1 of this
13 chapter, but this subsection does not include leases or rentals of real
14 property used for residential or agricultural purposes.

15 C. The commercial lease classification does not include:

16 1. Any business activities that are classified under the transient
17 lodging classification.

18 2. Activities engaged in by the Arizona exposition and state fair
19 board or county fair commissions in connection with events sponsored by those
20 entities.

21 3. Leasing real property to a lessee who subleases the property if the
22 lessee is engaged in business classified under the commercial lease
23 classification or the transient lodging classification.

24 4. Leasing real property pursuant to a written lease agreement entered
25 into before December 1, 1967. This exclusion does not apply to the
26 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,
27 apartment houses, office buildings, automobile storage garages, parking lots
28 or tourist camps, or to the extension or renewal of any such written lease
29 agreement.

30 5. Leasing real property by a corporation to an affiliated
31 corporation. For the purposes of this paragraph, "affiliated corporation"
32 means a corporation that owns or controls at least eighty per cent of the
33 lessor, that is at least eighty per cent owned or controlled by the lessor or
34 that is at least eighty per cent owned or controlled by a corporation that
35 also owns or controls at least eighty per cent of the lessor. Ownership and
36 control are determined by reference to the voting shares of a corporation.

~~6. Leasing real property for sublease if the tenant in possession of the property is subject to the rental occupancy tax pursuant to article 9 of this chapter.~~

~~7.~~ 6. Leasing real property for boarding horses.

~~8.~~ 7. Leasing or renting real property or the right to use real property at exhibition events in this state sponsored, operated or conducted by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~9.~~ 8. Leasing or renting real property or the right to use real property for use as a rodeo featuring primarily farm and ranch animals in this state sponsored, operated or conducted by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~10.~~ 9. Leasing or renting dwelling units, lodging facilities or trailer or mobile home spaces if the units, facilities or spaces are intended to serve as the principal or permanent place of residence for the lessee or renter or if the unit, facility or space is leased or rented to a single tenant thirty or more consecutive days.

~~11.~~ 10. Leasing or renting real property and improvements for use primarily for religious worship by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~12.~~ 11. Leasing or renting real property used for agricultural purposes under either of the following circumstances:

(a) The lease or rental is between family members, trusts, estates, corporations, partnerships, joint venturers or similar entities, or any combination thereof, if the individuals or at least eighty per cent of the beneficiaries, shareholders, partners or joint venturers share a family relationship as parents or ancestors of parents, children or descendants of children, siblings, cousins of the first degree, aunts, uncles, nieces or

1 nephews of the first degree, spouses of any of the listed relatives and
2 listed relatives by the half-blood or by adoption.

3 (b) The lessor leases or rents real property used for agricultural
4 purposes under no more than three leases or rental agreements.

5 ~~13.~~ 12. Leasing, renting or granting the right to use real property to
6 vendors or exhibitors by a trade or industry association that is a qualifying
7 organization pursuant to section 513(d)(3)(C) of the internal revenue code
8 for a period not to exceed twenty-one days in connection with an event that
9 meets all of the following conditions:

10 (a) The majority of such vending or exhibition activities relate to
11 the nature of the trade or business sponsoring the event.

12 (b) The event is held in conjunction with a formal business meeting of
13 the trade or industry association.

14 (c) The event is organized by the persons engaged in the particular
15 trade or industry.

16 ~~14.~~ 13. Leasing, renting or granting the right to use real property
17 for a period not to exceed twenty-one days by a coliseum, civic center, civic
18 plaza, convention center, auditorium or arena owned by this state or any of
19 its political subdivisions.

20 ~~15.~~ 14. Leasing or subleasing real property used by a nursing care
21 institution as defined in section 36-401 that is licensed pursuant to title
22 36, chapter 4.

23 ~~16. Leasing or renting a transportation facility as provided in section~~
24 ~~28-7705, subsections A and B.~~

25 ~~17.~~ 15. Granting or providing rights to real property that constitute
26 a profit à prendre for the severance of minerals, including all rights to use
27 the surface or subsurface of the property as is necessary or convenient to
28 the right to sever the minerals. This paragraph does not exclude from the
29 commercial lease classification leasehold rights to the real property that
30 are granted in addition to and not included within the right of profit à
31 prendre, but the tax base for the grant of such a leasehold right, if the
32 gross income derived from the grant is not separately stated from the gross
33 income derived from the grant of the profit à prendre, shall not exceed the
34 fair market value of the leasehold rights computed after excluding the value
35 of all rights under the profit à prendre. For the purposes of this
36 paragraph, "profit à prendre" means a right to use the land of another to
37 mine minerals, and carries with it the right of entry and the right to remove

1 and take the minerals from the land and also includes the right to use the
2 surface of the land as is necessary and convenient for exercise of the
3 profit.

4 D. The tax base for the commercial lease classification is the gross
5 proceeds of sales or gross income derived from the business, but
6 reimbursements to the lessor for utility service shall be deducted from the
7 tax base.

8 E. Notwithstanding section 42-1104, subsection B, paragraph 1,
9 subdivision (b) and paragraph 2, the failure to file tax returns for the
10 commercial lease classification that report gross income derived from any
11 agreement that constitutes, in whole or in part, a grant of a right of profit
12 à prendre for the severance of minerals does not constitute an exception to
13 the general rule for the statute of limitations.

14 F. For the purposes of this section:

15 1. "Leasing" includes renting.

16 2. "Real property" includes any improvements, rights or interest in
17 such property.

18 Sec. 6. Section 42-6208, Arizona Revised Statutes, is amended to read:

19 42-6208. Exempt government property improvements

20 The tax under this article does not apply with respect to:

21 1. Property that is used for a governmental activity.

22 2. Property that is used for public housing.

23 3. Easements and rights-of-way of railroads and gas, electric, water,
24 pipeline and telephone utilities.

25 4. Interests in all or any part of a facility that is owned of record
26 by a government lessor and used primarily for athletic, recreational,
27 entertainment, artistic, cultural or convention activities if the interest is
28 used for those activities or activities directly related and incidental to
29 these uses including concession stands.

30 5. Property that is located on municipal airports and airports that
31 operate pursuant to sections 28-8423, 28-8424 and 28-8425, if the property is
32 used for or in connection with aviation, including hangars, tie-downs,
33 aircraft maintenance, sale of aviation related items, charter and rental
34 activities, commercial aircraft terminal franchises, parking facilities and
35 restaurants, stores and other services that are located in a terminal.

1 6. The use by a commercial airline of the runways and terminal
2 facilities of state, city, town or county airports and public airports
3 operating pursuant to sections 28-8423, 28-8424 and 28-8425.

4 ~~7. Leases of property or interests in a transportation facility that~~
5 ~~is constructed or operated pursuant to title 28, chapter 22, article 1 or 2.~~

6 ~~8.~~ 7. Interests in property held in trust for an Indian or an Indian
7 tribe by the United States government.

8 ~~9.~~ 8. Interests in property that is defined as "contractor-acquired
9 property" or "government-furnished property" in the federal acquisition
10 regulations (48 Code of Federal Regulations section 45.101) and that is owned
11 by the government and used to perform a government contract.

12 ~~10.~~ 9. Property of a corporation that is organized by or at the
13 direction of a county, city or town to develop, construct, improve, repair,
14 replace or own any property, improvement, building or other facility to be
15 used for public purposes that the county, city or town pledges to lease or
16 lease-purchase with county or municipal special or general revenues.

17 ~~11.~~ 10. Interests in property used by a chamber of commerce recognized
18 under section 501(c)(6) of the United States internal revenue code if the
19 property is used predominately for those federal tax exempt purposes.

20 ~~12.~~ 11. Interests in property used by organizations that are exempt
21 from taxation under section 501(c)(3) of the internal revenue code.

22 ~~13.~~ 12. Interests in parking garages or decks if the parking garages
23 or decks are owned and operated by a government lessor or operated on behalf
24 of a government lessor, by an entity other than the prime lessee, pursuant to
25 a management agreement with the government lessor.

26 ~~14.~~ 13. Residential rentals if the prime lessee is the occupant."

27 Amend title to conform

and, as so amended, it do pass

STEVE YARBROUGH
Chairman

1027-se-wm
4/7/08
H:jjb